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08/911341

APPLICATION NUMBER	FILING DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO.
08/911,341	08/14/97	LEWIS	1027-9728

QM41/1027

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EXAMINER

ASHER, K

ART UNIT PAPER NUMBER

3735

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DATE MAILED: 10/27/98

This is a communication from the examiner in charge of your application.
COMMISSIONER OF PATENTS AND TRADEMARKS

OFFICE ACTION SUMMARY

☒ Responsive to communication(s) filed on 8/14/97

☐ This action is FINAL.

☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 D.C. 11; 453 O.G. 213.

A shortened statutory period for response to this action is set to expire 1 month(s), or thirty days, whichever is longer, from the mailing date of this communication. Failure to respond within the period for response will cause the application to become abandoned. (35 U.S.C. § 133). Extensions of time may be obtained under the provisions of 37 CFR 1.136(a).

Disposition of Claims

- ☒ Claim(s) 1-19 is/are pending in the application.
Of the above, claim(s) _____ is/are withdrawn from consideration.
☐ Claim(s) _____ is/are allowed.
☐ Claim(s) _____ is/are rejected.
☐ Claim(s) _____ is/are objected to.
☒ Claim(s) 1-19 are subject to restriction or election requirement.

Application Papers

- ☒ See the attached Notice of Draftsperson's Patent Drawing Review, PTO-948.
☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
☐ The proposed drawing correction, filed on _____ is ☐ approved ☐ disapproved.
☒ The specification is objected to by the Examiner.
☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
☐ All ☐ Some* ☐ None of the CERTIFIED copies of the priority documents have been:
☐ received.
☐ received in Application No. (Series Code/Serial Number) _____
☐ received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

*Certified copies not received: _____

- ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- ☐ Notice of Reference Cited, PTO-892
☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
☐ Interview Summary, PTO-413
☒ Notice of Draftsperson's Patent Drawing Review, PTO-948
☐ Notice of Informal Patent Application, PTO-152

—SEE OFFICE ACTION ON THE FOLLOWING PAGES—

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The disclosure is objected to because of the informalities set forth below. Appropriate correction is required.

Reference numerals 14 and 52 are not shown in the figures as stated in the Detailed Description. Reference numeral 14 is not in figure 1 as stated. Reference numeral 52 is not illustrated at all. On page 8, line 2 of paragraph 4, reference numeral 14 is used inconsistently. On page 8, reference numerals 51 and 41 are used inconsistently. On page 8, the penultimate line, is "notion" used correctly. On page 9, the penultimate line, is "Remembering..." used correctly. Where was this previously discussed? Are frames 13 and 55 the same or different elements?

These informalities must be corrected in response to this Office Action.

Restriction to one of the following inventions is required under 35 U.S.C. § 121:

- I. Claims 1-9 and 13-19, drawn to a full face mask, classified in Class 128, subclass 201.12.*
- II. Claims 10-12, drawn to a method of sizing a nose cup, classified in Class 128, subclass 206.24.*

The inventions are distinct, each from the other because of the following reasons:

Inventions I and II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention II has separate utility such as in other full face masks. See M.P.E.P. § 806.05(d).

Because these inventions are distinct for the reasons given above and the search required for Group II is not required for Group I, restriction for examination purposes as indicated is proper.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37

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CFR 1.143).

Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Examiner K. L. Asher at telephone number (703) 308-0858.


Any inquiry of a general nature should be directed to the Group receptionist at (703) 308-0858.

Status inquiries are to be handled according to MPEP section 203, and directed to the Group receptionist, not the Examiner.

Inquiries as to Terminal Disclaimer and PCT requirements should be directed to the Group Paralegal, Mr. Andre Robinson, at (703) 308-2104.

*The informal facsimile phone number for Technology Center 3735 is (703) 306-4520. The Formal Fax for Group 3700 are (703) 305 -3590. **PLEASE CALL THE EXAMINER PRIOR TO SENDING ANY FAX** to the 306-4520 number. This will ensure that the Examiner receives the fax promptly.*

October 23, 1998


Kimberly L. Asher
Primary Patent Examiner
Technology Center 3700